

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

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BEFORE THE ADMINISTRATOR

ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

In the Matter of)
)
)

THE LANDMARK PROPERTIES, L.C.)

Docket No. TSCA-07-2002-0220

Respondents)
)
)

CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of a civil penalty was initiated on or about September 16, 2002, pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), when the United States Environmental Protection Agency (Complainant) issued The Landmark Properties, L.C. (Respondent), a Complaint and Notice of Opportunity for Hearing.

The Complaint charged Respondent with violations of Section 409 of TSCA, 15 U.S.C. § 2689, and the regulations of 40 C.F.R. part 745, subpart F - *Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property* ("Disclosure Rule"), which were promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. §§ 4851 et seq.

The Complaint proposed a civil penalty of Four Thousand Nine Hundred and Fifty Dollars (\$4,950.00) for these alleged violations. The parties entered into negotiations in an attempt to settle the allegations contained in the Complaint. This Consent Agreement and Final Order is the result of such negotiations, and fully and finally resolve the allegations contained in the Complaint.

CONSENT AGREEMENT

1. For the purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint, and neither admits nor denies the factual allegations of the Complaint.

2. Respondent waives its right to contest the allegations of the Complaint and its right to appeal the Final Order accompanying this Consent Agreement.

3. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

4. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, it is presently in compliance with all requirements of 40 C.F.R. part 745, subpart F.

5. Respondent consents to the issuance of the Final Order hereinafter recited and consent to the payment of a mitigated civil penalty in the amount of Four Hundred Dollars (\$400.00), to be paid within thirty (30) days of the effective date of the Final Order.

6. Respondent understands that its failure to timely pay any portion of the mitigated civil penalty stated in Paragraph 5 above, may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the rate determined by the Secretary of the Treasury (five percent (5%) per annum for the period January 1, 2002 through December 31, 2002) on the unpaid balance until such civil penalty and any accrued interest are paid in full. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (5%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

FINAL ORDER

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 et seq., and based upon the information set forth in the Consent Agreement accompanying this Final Order, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Four Hundred Dollars (\$400.00) within thirty (30) days of the effective date of this Final Order. Such payment shall identify the Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and sent to:

EPA-Region 7
c/o Mellon Bank
P.O. Box 360748M
Pittsburgh, Pennsylvania 15251.

2. A copy of the check must simultaneously be sent to the following:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region VII
901 N. 5th Street
Kansas City, Kansas 66101; and

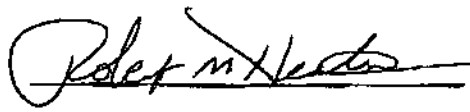
Rupert G. Thomas
Office of Regional Counsel
U.S. Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101.

3. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

The Landmark Properties, L.C.
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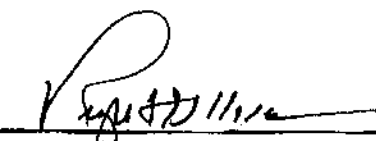
RESPONDENT
THE LANDMARK PROPERTIES, L.C.

Date: December 31, 2002

By: 
Title: Managing Member

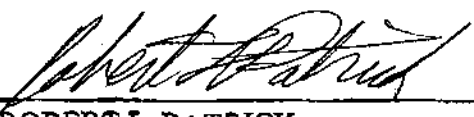
COMPLAINANT
U. S. ENVIRONMENTAL PROTECTION AGENCY

Date: January 2, 2003

By: 
Rupert G. Thomas
Assistant Regional Counsel
EPA, Region 7

IT IS SO ORDERED. This Order shall become effective immediately.

Date: January 2, 2003


ROBERT L. PATRICK
Regional Judicial Officer
EPA, Region 7

IN THE MATTER OF, The Landmark Properties, L.C., Respondent
Docket No. TSCA-07-2002-0220

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Rupert G. Thomas
Senior Associate Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101


Copy by Facsimile and First Class Pouch Mail to:

Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
401 M Street, S.W.
Washington, D. C. 20460

Copy by U.S. Certified Mail,
Return Receipt Requested, to:

Robert M Heaton
Heaton Adams & Company
The Depot
333 W. 4th Street
P.O. Box 1026
Waterloo, Iowa 50704

Dated: 1/2/03


Kathy Robinson
Regional Hearing Clerk